

## **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed December 3, 2004. Through this response, Applicant has canceled claims 1-19 without prejudice, waiver, or disclaimer, and has added claims 20-45. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Claim Objections**

Applicant has canceled claims 1-19 without prejudice, waiver, or disclaimer. In view of the above-noted claim amendments, Applicant respectfully submits that the claim 17 objection is rendered moot and respectfully requests that the objection be withdrawn.

### **II. Claim Rejections - 35 U.S.C. § 112, First Paragraph**

Claims 1-10 and 12-19 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 1-19 without prejudice, waiver, or disclaimer. In view of the above-noted claim amendments, Applicant respectfully submits that the rejection is rendered moot and respectfully requests that the rejection be withdrawn.

### **III. Rejections Under 35 U.S.C. §102**

#### **A. Statement of the Rejection**

The Office Action indicates that claims 1-19 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Davis et al.* (*Davis*, USPN 6,701,449). Applicant has canceled claims 1-19 without prejudice, waiver, or disclaimer. In view of the above-noted claim amendments, Applicant respectfully submits that the rejection is rendered moot and

respectfully requests that the rejection be withdrawn. Applicant will discuss the *Davis* reference as applied to new claims 20-45.

## **B. Discussion of the Rejection**

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

### **Independent Claim 20**

With regard to independent claim 20, Applicant claims (with emphasis added):

20. A failover system, comprising:  
a first iSCSI controller; and  
a second iSCSI controller, the second iSCSI controller coupled to the first iSCSI controller, the first iSCSI controller configured to receive an I/O request over a network and ***copy the I/O request to memory*** corresponding to the second iSCSI controller, wherein ***responsive to detecting a failure of the first iSCSI controller, the second iSCSI controller determines whether the I/O request has been committed by the first iSCSI controller, wherein responsive to determining that the I/O request has been committed, the second iSCSI controller assumes the network address of the first iSCSI controller, retrieves the copy of the I/O request from the memory, and writes the copy of the I/O request to a storage system.***

Applicant respectfully submits that *Davis* does not disclose the above emphasized claim language. For instance, *Davis* discloses (in column 4, lines 6-9) the following:

The redundant SCMs will both be connected to the same set of networks.  
This allows either of the SCMs to respond to the IP address of the other SCM in the event of failure of one of the SCMS.

From at least this portion of the specification of *Davis*, it is evident that *Davis* does not meet the claimed feature of “the first iSCSI controller configured to receive an I/O request over a

network and *copy the I/O request to memory* corresponding to the second iSCSI controller,” as recited in independent claim 20.

Additionally, nothing in Davis discloses “*wherein responsive to determining that the I/O request has been committed, the second iSCSI controller assumes the network address of the first iSCSI controller, retrieves the copy of the I/O request from the memory, and writes the copy of the I/O request to a storage system,*” as recited in independent claim 20. Since Davis does not disclose the emphasized claim language, Applicant respectfully requests that the independent claim 20 is allowable over Davis.

Because independent claim 20 is allowable over Davis, corresponding dependent claims 21-28 are allowable as a matter of law for at least the reason that dependent claims 21-28 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Independent claim 29**

With regard to independent claim 29, Applicant claims (with emphasis added):

29. A failover method, comprising:  
receiving at a first network address an I/O request;  
*copying the I/O request;*  
*storing the copy of the I/O request at a second network address;*  
detecting whether the I/O request can be processed at the first  
network address;  
*responsive to detecting that the I/O request cannot be processed*  
*at the first network address, determining whether the I/O request has*  
*been committed;*  
responsive to determining that the I/O request has been committed,  
assuming the first network address from the second network address;  
*retrieving the copy of the I/O request; and*  
*writing the copy of the I/O request to a storage system.*

Applicant respectfully submits that Davis does not disclose the above emphasized claim language. In particular, Davis does not meet the claimed features of “*copying the I/O request,*”

*“storing the copy of the I/O request at a second network address,” “responsive to detecting that the I/O request cannot be processed at the first network address, determining whether the I/O request has been committed,” “retrieving the copy of the I/O request,” or “writing the copy of the I/O request to a storage system,”* as recited in independent claim 29. Since *Davis* does not disclose the emphasized claim language, Applicant respectfully requests that the independent claim 29 is allowable over *Davis*.

Because independent claim 29 is allowable over *Davis*, corresponding dependent claims 30-33 are allowable as a matter of law.

#### **Independent Claim 34**

With regard to independent claim 34, Applicant claims (with emphasis added):

34. A failover system, comprising:  
means for detecting whether an I/O request can be processed at a first network address;  
*responsive to detecting that the I/O request cannot be processed at the first network address, means for determining whether the I/O request has been committed;*  
responsive to determining that the I/O request has been committed,  
means for assuming the first network address from the second network address;  
*means for retrieving the copy of the I/O request; and*  
*means for writing the copy of the I/O request to a storage system.*

Applicant respectfully submits that *Davis* does not disclose the above emphasized claim language. In particular, *Davis* does not meet the claimed features of *“responsive to detecting that the I/O request cannot be processed at the first network address, means for determining whether the I/O request has been committed,” “means for retrieving the copy of the I/O request,” or “means for writing the copy of the I/O request to a storage system,”* as recited in independent claim 34. Since *Davis* does not disclose the emphasized claim language, Applicant respectfully requests that the independent claim 34 is allowable over *Davis*.

### Independent Claim 35

With regard to independent claim 35, Applicant claims (with emphasis added):

35. A network controller for use on a network, comprising:  
*a communication port configured to receive* status information  
and *a copy of an I/O request from a second network controller;*  
*a memory configured to store the copy of the I/O request;* and  
*logic configured to* detect a failure of the second network  
controller and *determine whether the I/O request has been committed by*  
*the second network controller,* wherein responsive to determining that the  
I/O request has been committed, *the logic further configured to* assume  
the network address of the second network controller, *retrieve the copy of*  
*the I/O request from the memory, and write the copy of the I/O request*  
*to a storage system.*

Applicant respectfully submits that *Davis* does not disclose the above emphasized claim language. In particular, *Davis* does not meet the claimed features of “*a communication port configured to receive* status information and *a copy of an I/O request from a second network controller,*” “*a memory configured to store the copy of the I/O request,*” or “*logic configured to* detect a failure of the second network controller and *determine whether the I/O request has been committed by the second network controller,* wherein responsive to determining that the I/O request has been committed, *the logic further configured to* assume the network address of the second network controller, *retrieve the copy of the I/O request from the memory, and write the copy of the I/O request to a storage system,*” as recited in independent claim 35. Since *Davis* does not disclose the emphasized claim language, Applicant respectfully requests that the independent claim 35 is allowable over *Davis*.

Because independent claim 35 is allowable over *Davis*, corresponding dependent claims 36-44 are allowable as a matter of law.

### Independent Claim 45

With regard to independent claim 45, Applicant claims (with emphasis added):

45. A computer-readable medium having a computer program for processing an I/O request on behalf of a failed controller, comprising:  
***logic configured to detect a failure of a controller and determine whether the I/O request has been committed by the controller***, wherein responsive to determining that the I/O request has been committed, the ***logic is further configured to assume the network address of the second network controller, retrieve the copy of the I/O request from the memory, and write the copy of the I/O request to a storage system.***

Applicant respectfully submits that *Davis* does not disclose the above emphasized claim language. In particular, *Davis* does not meet the claimed features of “***logic configured to detect a failure of a controller and determine whether the I/O request has been committed by the controller***, wherein responsive to determining that the I/O request has been committed, the ***logic is further configured to assume the network address of the second network controller, retrieve the copy of the I/O request from the memory, and write the copy of the I/O request to a storage system,***” as recited in independent claim 45. Since *Davis* does not disclose the emphasized claim language, Applicant respectfully requests that the independent claim 45 is allowable over *Davis*.

### IV. Canceled Claims

As identified above, claims 1-19 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

### V. Newly Added Claims

As identified above, claims 20-45 have been added into the application through this response. Applicant respectfully submits that these new claims describe an invention novel

and unobvious in view of the prior art of record and, therefore, respectfully requests that these claims be held allowable.

### CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all rejections and objections have been rendered moot, and that the now pending claims 20-45 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Rodack', is written over a horizontal line.

**David Rodack**  
**Reg. No. 47,034**